



MEMORANDUM

Agenda Item No. 4(P)

TO: Honorable Chairperson Barbara Carey-Shuler, Ed. D. and Members, Board of County Commissioners
DATE: (Public Hearing 6-8-04) **May 25, 2004**

FROM: George M. [Signature] County Manager
SUBJECT: Ordinance Imposing Court-related Surcharges

RECOMMENDATION

It is recommended that the Board approve the attached ordinance authorized by sections 939.185 and 318.18(13), Florida Statutes, to impose additional court costs upon persons found guilty of certain crimes and traffic offenses to fund court-related programs and activities and impose a surcharge on civil and criminal traffic infractions to fund court facility needs.

BACKGROUND

In 1998, the voters of Florida approved Revision 7 to Article V of the State Constitution transferring funding responsibility for much of the state court system from the counties to the State. Counties retained the obligation to fund certain court facility and communications needs, as well as local requirements as certified by the Chief Judge of each circuit. Legislation implementing this revision, approved during the 2003 State legislative session, redirected all filing fee revenues that had previously been paid to counties to the clerks to fund court-related activities. Incremental filing fees and surcharges that had previously funded court facility and information technology needs, as well as providing revenue to legal aid programs, law libraries, teen courts and juvenile assessment centers and diversion programs were eliminated.

During the 2004 legislative session, SB 2962 was enacted to resolve many of the outstanding issues related to the funding transition. Among other things, this legislation provides for streams of revenue to fund information technology needs, facility needs, legal aid programs, law libraries, teen courts, juvenile assessment centers, juvenile diversion programs, court innovations and local requirements, and law enforcement training. Two of these streams must be enacted locally by ordinance.

SB 2962 added a new section 939.185, Florida Statutes, which authorizes counties to impose a sixty-five dollar (\$65.00) court cost upon every person who pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any felony, misdemeanor, or criminal traffic offense. Twenty-five percent (25%) of the amount collected shall be allocated to fund innovations to supplement state funding for the elements of the state court system identified in Section 29.004, Florida Statutes, and county funding for local requirements under Section 29.008(2)(a)2. Twenty-five percent (25%) of the amount collected shall be allocated to the Miami-Dade County Legal Aid program. Twenty-five percent (25%) of the amount collected shall be allocated to fund personnel and legal materials for the Miami-Dade County Law Library. Twenty-five percent (25%) of the amount collected shall be allocated to fund Teen Court, the Juvenile Assessment Center or other juvenile diversion programs. This non-waivable surcharge is estimated to generate approximately \$3.8 million annually for Miami-Dade County.

SB 2962 also added section 318.18(13), Florida Statutes, which authorizes counties to impose a fifteen dollar (\$15.00) surcharge upon every civil traffic infraction and upon every criminal traffic violation issued in Miami-Dade County. All proceeds from this surcharge shall be used to fund state court facilities as required by general law. An accompanying ordinance on this agenda pledges this revenue for outstanding court facility bonds. Any revenue collected in excess of that which is necessary for annual debt service payments will be used either to defease the outstanding bonds or for annual court facility needs. It is estimated that this non-waivable surcharge will generate approximately \$8 million annually for Miami-Dade County.

Two other sources of revenue were established through this legislation, though they are not required to be imposed locally. A \$4 per page service charge for recording documents was established to fund technology needs of the court system. Of that service charge, \$2 is to be distributed to the counties to fund technology needs specifically of the trial courts, state attorney and public defender. It is estimated that this \$2 will generate approximately \$6 million annually for Miami-Dade County, while the remaining \$2 for the clerks will generate another \$6 million annually. Prior to SB 2962, the legislature had mandated that counties pay for all of these technology needs. Also, a court cost of \$2.50 was established for traffic infractions to be distributed to counties to help pay for criminal justice education and training programs. It is estimated that this cost will generate approximately \$1.2 million annually.


Assistant County Manager



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: June 8, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(P)

Please note any items checked.

- _____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- _____ 6 weeks required between first reading and public hearing
- _____ 4 weeks notification to municipal officials required prior to public hearing
- _____ Decreases revenues or increases expenditures without balancing budget
- _____ Budget required
- _____ Statement of fiscal impact required
- _____ Bid waiver requiring County Manager's written recommendation
- _____ Ordinance creating a new board requires detailed County Manager's report for public hearing
- _____ Housekeeping item (no policy decision required)
- _____ No committee review

Approved _____ Mayor

Agenda Item No. 4 (P)

Veto _____

6-8-04

Override _____

ORDINANCE NO. _____

ORDINANCE RELATED TO THE COURTS; CREATING SECTIONS 11-11 AND 11-12 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; IMPOSING ADDITIONAL COURT COSTS ON CERTAIN CRIMES AND TRAFFIC OFFENSES TO FUND COURT PROGRAMS AND ACTIVITIES; IMPOSING SURCHARGE ON CIVIL AND CRIMINAL TRAFFIC INFRACTIONS AND VIOLATIONS TO FUND COURT FACILITIES AND DEBT SERVICE THEREON; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Sections 11-11 and 11-12 of the Code of Miami-Dade County, Florida, are hereby created to read as follows:

CHAPTER 11

COURTS

* * *

ARTICLE I. IN GENERAL

* * *

Sec. 11-11. Additional court costs in criminal proceedings.

In addition to any other fine, penalty, or cost imposed by any other provision of law, a sixty-five dollar (\$65.00) court cost is hereby imposed upon any conviction, plea of nolo contendere or finding of guilt, regardless of whether adjudication is withheld, for each felony, misdemeanor, or criminal traffic offense. The court shall not waive this court cost. The Clerk of the Court shall collect

the sixty-five dollar (\$65.00) assessments for court costs established in this section and shall remit it to Miami-Dade County. All proceeds collected shall be allocated as follows:

- (a) Twenty-five percent (25%) of the amount collected shall be allocated to fund innovations to supplement state funding for the elements of the state court system identified in Section 29.004, Florida Statutes, as amended from time to time, and county funding for local requirements under Section 29.008(2)(a)2, as amended from time to time.
- (b) Twenty-five percent (25%) of the amount collected shall be allocated to assist legal aid programs.
- (c) Twenty-five percent (25%) of the amount collected shall be allocated to fund personnel and legal materials for the law library.
- (d) Twenty-five percent (25%) of the amount collected shall be allocated to support teen court programs, the Juvenile Assessment Center or other juvenile alternative programs.

Sec. 11-12. Additional surcharge for court facilities.

In addition to any other fine, penalty, or cost imposed by any other provision of law, a fifteen dollar (\$15.00) surcharge is hereby imposed upon any conviction or finding of guilt, regardless of whether adjudication is withheld, on each civil traffic infraction referenced in section 318.14, Florida Statutes, as amended from time to time, and upon any conviction, plea of nolo contendere or finding of guilt, regardless of whether adjudication is withheld, on each criminal traffic violation referenced in section 318.17, Florida Statutes, as amended from time to time. The court shall not waive this surcharge. The Clerk of the Court shall collect the fifteen dollar (\$15.00) surcharge established in this section and shall remit it to Miami-Dade County. All proceeds from this surcharge shall be used to fund state court facilities as required by general law. The funding of state court facilities includes but is not limited to payment of debt service on any bonds issued to finance state court facilities.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective July 1, 2004 unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RA 6

Prepared by:

JMM

Jess M. McCarty

Sponsored by Commissioner Sally A. Heyman and
Chairperson Barbara Carey-Shuler, Ed.D.